

HELEN E. SERENCHA

IBLA 78-317

Decided February 23, 1979

Appeal from a decision of Wyoming State Office, Bureau of Land Management, excluding appellant's drawing entry card from the drawing of simultaneously filed oil and gas lease offers. W 62696.

Reversed.

1. Administrative Practice—Oil and Gas Leases: Applications: Drawings

Where the Director, Bureau of Land Management, has specified which kinds of discrepancies will result in the exclusion of drawing entry cards from a drawing of simultaneously filed oil and gas lease offers, and directs that all other cards are to be included in the drawings, the action of one field office to exclude certain other types of cards will be reversed as being in contravention of such directive.

2. Oil and Gas Leases: Applications: Drawings

Oil and gas drawing entry cards may not be excluded from a drawing for trivial and inconsequential alterations which do not affect the appearance or feel of the cards in any significant way and which were not intended to adversely affect the integrity of the drawing.

APPEARANCES: Helen E. Serencha, pro se.

OPINION BY ADMINISTRATIVE JUDGE GOSS

Helen E. Serencha has appealed from the February 15, 1978, decision of the Wyoming State Office, Bureau of Land Management (BLM), which refused to include her drawing entry card (DEC) for Parcel

WY 101 in the February, 10, 1978, simultaneous drawing held under 43 CFR Subpart 31.12. The decision stated the card was excluded because of a correction made by an opaque liquid which altered the appearance and feel of the card, in violation of a notice of September 9, 1977, by the State Director. ^{1/}

[1, 2] In Margaret A. Ruggiero, 34 IBLA 171 (1978), the Board discussed the issues presented by the exclusion of entry cards by the BLM Wyoming State Office because the cards had been "altered" by the use of "white-out" fluid. The Board found that the September 9, 1977, Public Notice issued by the BLM Wyoming State Director, and the exclusion of entry cards pursuant to the Notice, were in contravention of BLM Instruction Memorandum No. 75-194, which specified when an entry card should be excluded from a simultaneous oil and gas lease drawing. In Ruggiero, it was stated:

However, even assuming, arguendo, that Instruction Memo No. 75-194 did not exist, and that the "Public Notice" was fully authoritative and properly promulgated, we would still be constrained to reverse the decisions of the Wyoming State Office in each of the appeals considered in this opinion. None of the DEC's in question are so marked or altered that they could reasonably be regarded as having been the subject of any method intended to alter the feel and appearance of these cards, as specified in the "Public Notice." For example, many of the cards were excluded from the drawing because a white, opaque fluid was used to "white-out" a typographical error for correction. This does not significantly alter the appearance or feel of the card in such a way that would distinguish [it] from all the others, and it certainly

^{1/} The State Office notice reads as follows:

PUBLIC NOTICE

"Effective immediately, this office will reject any simultaneous oil and gas drawing entry cards filed for Wyoming federal oil and gas leases which are altered or marked in any way, such as by stamping entry cards with embossed seals, by dusting cards with lubricating powder before mailing, by using raised letters on names and addresses on entry cards, by folding cards in any way, or by wetting cards and allowing them to dry with a curl, or by any other method intended to alter the feel and appearance of these cards. Any card so altered or marked will not be included in the drawing and any filing fees accompanying the cards will be retained by the federal government as a service charge. The altered or marked cards will not be returned to the applicant until such time as they are no longer needed as evidence in case of a possible appeal."

does not indicate that it was "intended" as a "method" of gaining an advantage in the drawing or to facilitate the perpetration of a fraud.

34 IBLA at 173.

Our examination of the card in issue persuades us that the use of a "white-out" liquid to correct the date of execution of the card did not materially alter the feel or the appearance of the card in any significant manner, so as to distinguish it from other cards for the same parcel.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed, and the case is remanded to the State Director, Wyoming, for further action consistent with this opinion.

Joseph W. Goss
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

James L. Burski
Administrative Judge

